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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/329,002 06/08/99 MOONEY

C ECC-5062CIP2

QM12/1107

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EXAMINER

THANH, L

ART UNIT

PAPER NUMBER

3763

DATE MAILED:

11/07/00

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/329,002

Applicant(s)  
Mooney et al.

Examiner  
LoAn H. Thanh

Group Art Unit  
3763



☒ Responsive to communication(s) filed on Jun 8, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-85 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-85 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3763

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-59, drawn to a multiple access lumen system, classified in class 604, subclass 264.
  - II. Claims 60-85, drawn to a method for introducing a medical device, classified in class 604, subclass 506.

2. The inventions are distinct, each from the other because of the following reasons:  
Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by another different apparatus such as a balloon catheter, a syringe or intravenous system.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

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5. This application contains claims directed to the following patentably distinct species of the claimed invention:

A/ figs. 1-5, 9, 11A-C, 13-14, 16-17, 19-24, 31, 34-38, 39-41,

B/ figs. 6-8

C/ fig. 10.

D/ fig. 15

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Upon election of species A, a further election of species is required between

1/ figs 1-5

2/ fig. 9

3/ fig. 13

4/ fig. 14

5/ fig. 16-17

6/ fig. 19-24

7/ fig. 34-38

8/ fig. 39-41

6. Upon election of embodiment 7/ above, applicant is required to elect a further species of election as follows:

35A, 35B, 35C, 35D , 37-38,

7. Upon election above, applicant is further requested to elect between the different adapters, and obturators/introducers :

adapter: 42ab, 43ab, 44ab, 45ab, 46ab

introducer: 47ab, 48ab, 49, 50ab, 51-54.

8. A telephone call was made to Lena Vinitskaya on 11/6/00 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (703) 305-0038.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Seidel, can be reached on (703) 305-3009. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the patent analyst, Tammy Holland, whose telephone number is (703)305-2389.

LoAn H. Thanh

Patent Examiner

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Date: November 6, 2000

*Nguyen*  
Acting SPE  
Art 3763.